



Tennessee State Board of Accountancy
Department of Commerce and Insurance

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MINUTES

TENNESSEE STATE BOARD OF ACCOUNTANCY MEETING

March 26, 2004

The meeting of the Tennessee State Board of Accountancy convened in the Davy Crockett Tower, Nashville, Tennessee, on Friday, March 26, 2004, at 11:00 a.m.

Members present were David Curbo, Chairman; Micheal Vaughn, Vice-Chairman; Mark King, Secretary; Charles Frasier, Mark Layne, Doug Warren, Kenneth Cozart, Max Haught and Charles Grant. Also present were Linda Biek, Executive Director; M. Connaught O'Connor, Staff Counsel; Leona Johnson, Administrative Assistant III; Dan Syriac, Administrative Manager; Brad Floyd, Executive Director for TSCPA; David Costello, President and CEO of NASBA; Mary Moody, General Council for Commerce and Insurance and Joe Wilson, CPA and Attorney from Memphis.

David Curbo called the meeting to order at 11:00 a.m. and introduced Max Haught and Charles Grant, new Board Members. Each gave a brief introduction. Robert Davidson is also a new Board Member, but was not present at the meeting.

David Costello updated the Board on recent activities involving NASBA. Mr. Costello advised the Board that April 5, 2004 remains the launch date for the computerized CPA exam. In addition, Mr. Costello discussed substantial equivalency, a national licensee database, and the NASBA's interaction with the PCAOB as the federal regulator to set standards and perform reviews for firms. Mr. Costello closed his presentation with a question and answer session. Mr. Curbo thanked Mr. Costello for his presentation.

Mark King made a motion to approve the minutes from the January 16, 2004 meeting. Mike Vaughn seconded the motion; it was voted on and approved.

LUNCH BREAK

Linda Biek presented the **Executive Director's Report:** (see attached report)

Ms. Biek informed the Board that our new staff member, Pat Turner was now on board. She also informed the Board that \$100 is allowed per meeting for food, beverages, snacks, boxed lunches, etc.

- 1) The next Board Meeting is scheduled for Friday June 25, 2004. There is a conflict with the NASBA Regional Meeting. This meeting room is available on Monday, June 28, 2004. After a brief discussion, the meeting was moved to Monday, June 28, 2004.
- 2) The November CPA exam grades are in and there were two grades which needed investigating. CPAES had investigated these two situations and had determined that these individuals did not sit near each other and no additional investigation was necessary.

BREAK IN AGENDA

Mr. Joe Wilson, CPA and Attorney, from Memphis was in attendance and had requested time to personally address the Board regarding his preparation of income tax returns for his clients as an Attorney while he holds an Inactive CPA Certificate. During his presentation, Mr. Wilson cited

Tennessee Accountancy law and rules 62-1-107(d), 0020-5-.03 and 0020-1-.01(1)(n). He also cited TCA 62-29-103 which allows an attorney to prepare income tax returns.

Mary Moody, General Council for Commerce and Insurance, then addressed the Board in response to Mr. Wilson's presentation. Ms. Moody informed Mr. Wilson and the Board that, at present, Mr. Wilson's CPA certificate is inactive, is current and is in good standing. Her department will revisit this issue and if a decision cannot be reached regarding the ability for an attorney to prepare income tax returns while holding an inactive CPA license, the Attorney General's office will be contacted for their opinion.

David Curbo thanked Mr. Wilson for his time and interest to personally address the Board in this matter.

After Mr. Wilson's presentation, Linda Biek continued with her **Executive Director's Report:**

- 3) The final late notice for CPA and Firm renewals will go out on March 31.
- 4) Prometric sites visited-, Linda visited Clarksville site, Charles Frasier visited the Madison site, Mike Vaughn visited the Franklin site, David Curbo visited the Memphis site and Mark King visited the Knoxville site. Each gave a brief report from their visit. Most sites were also a Sylvan Learning Center. Areas of concern that were noted include inadequate maps/directions, limited restroom facilities and the surveillance tapes are only kept for 30days.
- 5) Do we have any recommendations for the NASBA Committee nominations? If so, please give to Linda so that she can forward to NASBA.
- 6) Linda has been asked to participate on NASBA's Strategic Initiatives Committee.
- 7) NASBA's Regional Conference is June 23-25 in Orlando, Florida. Ken Cozart and Mark King are interested in attending. If anyone else is interested, please see Linda after the meeting. Travel requests will need to be made as soon as possible.
- 8) Return mail update. We received our first change of address postcard from the Postal Service.
- 9) David Curbo and Mike Vaughn will be interviewing two individuals for the Investigator Position following the meeting.
- 10) Diane Rubin has been nominated as the Vice-Chair of NASBA for 2004-2005..
- 11) The C.B.T. contract went into effect March 3, 2004. CPAES was awarded the 5yr. contract. (see enclosed package)
- 12) Please read the press release from David Costello regarding the state of the accounting profession as it pertains to self-regulation.
- 13) Joyce Cheung has filed a complaint with Consumer Affairs against NASBA and the Tennessee State Board of Accountancy. Robert Gowan requested that Linda write a brief letter to Ms. Cheung. (Please read her enclosed response). The Board requested Linda to forward this information on to the Florida Board since Ms. Cheung and her accounting business are located in Florida.
- 14) Please see the letter from Lisa Willett requesting permission to attend the University of Phoenix to obtain her remaining 18 hours in business and accounting. After the Board read the letter and held a brief discussion Mike Vaughn motioned to approve Ms. Willett's request to attend the University of Phoenix. Charles Grant seconded the motion; it was voted on and approved.
- 15) Please see the e-mail communication from Mike Yates regarding a new business venture he is contemplating. The Board agreed to have the Executive Committee review this information after tax season and respond to Mr. Yates as to whether or not this business would need to register with our Board.
- 16) Interpretation issues:
 - Should we require CPAs who are administratively closed to complete 80 hours of CPE and pay back fees before surrendering their license? If not, would we require them to come before the board and pay back fees to reinstate?
Connaught O'Connor informed the Board that the delinquent closure/reinstatement is a policy and that it needs to a Rule. Rule 0020-1-.08(4) & (7) address only the CPE for reinstatement and does not address fees. After much discussion, the Board agreed that individuals, whose CPA certificate status is administratively closed for failure to renew, can surrender their license without paying any back fees. However, this does not absolve them from probable cause investigation if deemed necessary. Doug Warren made a motion to require individuals to obtain 80 hours of CPE to reinstate

their CPA license but not be charged with back fees to surrender their license. However, if an individual continues to practice after their certificate is surrendered or has lapsed, a complaint will be filed against them. Kenneth Cozart seconded the motion; it was voted on and approved.

- Are non-CPAs employed by a CPA firm allowed to sign tax returns?
The Board agreed that this is not an issue that we should address.
- Are CPAs who work for CPA firms on a contract basis required to register as a firm?
After some discussion, the Board agreed that if a CPA is working for one company as a contract employee and they are not advertising, then there is no requirement to register as a firm.

Connaught O'Connor presented the **Attorney's Report / Probable Cause Committee Report:** (See Copy Attached)

New Case #1 – Reviewer, David Curbo, recommended to issue a consent order for \$250. New Case #9 – Reviewer, Doug Warren, recommended to close. New Case #13 – Reviewer, Doug Warren, recommended to close. Mark King motioned to approve the report and the reviewer's recommendations. Mike Vaughn seconded the motion; it was voted on and approved.

There was a brief discussion regarding substantial equivalency. At present, we have two sets of rules regarding substantial equivalency - one for the written exam and one for the CBT exam. TCA 62-1-107 (c) (1) (a)(b)(c) is the law covering substantial equivalency. Individuals are held to the law and rules in effect at the time they took the CPA exam. Doug Warren stated that a law change might need to be considered.

Charles Frasier presented the **CPE Committee Report:**

- 1) The Committee also discussed the Mr. Wilson's situation presented earlier. The Committee is waiting for a report from Connaught O'Connor, Mary Moody and/or the Attorney General's Office.
- 2) Should Tennessee require Ethics as part of CPE? NASBA has been researching this requirement. The Board discussed and approved a 4 hour requirement each 2 year renewal cycle. The Board agreed to submit this as a rule at the next rule making hearing.
- 3) The Committee discussed an individual's failure to meet CPE without requesting an extension. Presently, such individuals are given 6 months to make up the CPE plus the penalty CPE. Some states charge a monetary penalty for failure to meet CPE requirements, i.e.: \$25/month for non-compliance until CPE hours are completed. Such fees would have to be in a rule to be accessed automatically without going through the complaint process. Connaught O'Connor informed the Board that she would check into this; however she recommends addressing non-compliance with CPE by filing complaints and charging civil penalties with a consent order.
- 4) Charles Frasier made a motion to approve the issuance of 73 new CPA certificates and 13 reciprocal CPA certificates whose experience and other qualifications have been approved by the Board's staff. Kenneth Cozart seconded the motion; it was voted on and approved.

Mark King presented the **Peer Review Committee Report:**

- 1) Mark advised that 36 new firms have been processed since the last Board Meeting and made a motion for the Board to approved these firms. Charles Frasier seconded the motion; it was voted on and approved.
- 2) The Committee informed the Board that Brad Floyd and Connie Rhea of the TSCPA meet with the committee to discuss an AICPA council proposal. This proposal recommends that when a firm gets 2 consecutive modified or one adverse peer review, the results will be sent to the respective State Board of Accountancy. This should be voted on at the May AICPA meeting and could be in effect by the end of the year. At present, results of peer reviews are confidential. Accordingly, a law change will be required.
- 3) 403 firms have been selected for peer review. 396 have been scheduled, are completed or have been exempted. 7 firms have not responded to the notices and will be referred to probable cause.

- 4) An approved reviewer report is not complete at this time; however Connie Rhea will forward complete information to Leona as soon as possible.
- 5) The Peer Review manual has been updated and will be mailed out to the approved reviewers on April 1st.
- 6) The 2004 peer review list will be prepared on April 1st with notices sent out to the firms by April 15th.
- 7) The Alternative Procurement Method for approving our three-member review committee has not been finalized yet. Mark King motioned to the Board to approve the Peer Review Committee to modify and finalized the procurement contract with Connaught O'Connor to get it completed as soon as possible. Mike Vaughn seconded the motion; it was voted on and approved.

Connaught O'Connor discussed the Federal Privacy Act with the Board. After some discussion the Board agreed to add a line to the CPA application stating our authority to ask for social security numbers (TCA 0020-1-.05(2)). The Board agreed to put the code section on the CPA application form after the statement, "disclosure of your social security number is voluntary."

There being no further business to come before the Board the meeting was adjourned.

CHAIRMAN

SECRETARY